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thrown out of the car door because he failed to take proper precautions, his contributory negligence would bar recovery.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 708.]

6. Carriers (§ 290 (1*))—Injury to Mail Clerk—Contributory Negligence.—If plaintiff did not know that the safety bar upon which he had been accustomed to rely had been removed, and without any contributory negligence sustained injury by being thrown out of the car door, he is entitled to recover.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 702.]

7. Appeal and Error (§ 1153*)—Determination of Case—Final Judgment.—Where the court erred in setting aside a verdict for plaintiff, the court on appeal will enter the judgment which the trial court should have entered.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 628.]

Error to Circuit Court, Fairfax County.

Action by Alfred B. Carter against the Washington & Old Dominion Railway. From a judgment for defendant, plaintiff brings error. Reversed and rendered.

Moore, Keith, McCandlish & Hall, of Fairfax, for plaintiff in error.

W. J. Lambert, of Washington, D. C., and *C. E. Nichol*, of Alexander, for defendant in error.

LANE v. COMMONWEALTH.

March 21, 1918.

[95 S. E. 466.]

1. Intoxicating Liquors (§ 223 (1*))—Illegal Possession—Indictment and Information.—Under Acts 1916, c. 146, § 7, providing that an indictment for any first offense under sections 3, 4, or 5 of the act shall be sufficient if substantially in the form or to the effect set forth in those sections, where an indictment charged the keeping of intoxicating liquors in violation of section 3, no conviction could be had under section 17, making it unlawful to keep ardent spirits in a house of ill repute.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 28.]

2. Intoxicating Liquors (§ 224*)—Illegal Possession—Presumptions.—Acts 1916, c. 146, § 65, making possession of more than one gallon of distilled liquor in one's home prima facie evidence of possession for the purpose of sale, creates only a rebuttable presumption as to the purpose.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 33.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

3. Criminal Law (§ 814 (5)*)—Instructions—Conformity to Indictment.—Where the indictment merely alleged illegal keeping of liquors as defined by Acts 1916, c. 146, § 3, instruction that if any liquor was found at defendant's place, and such place was a house of ill repute, the jury might convict, was error.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 717.]

Error to Corporation Court, City of Hopewell.

E. L. Lane was convicted of violation of the prohibition law, and he brings error. Reversed.

Robert G. Hundley, of Hopewell, and *C. H. Morrisette*, of Lexington, for plaintiff in error.

The Attorney General, for the Commonwealth.

WISE et al. v. COMMONWEALTH et al.

March 28, 1918.

[95 S. E. 632.]

1. Taxation (§ 83*)—Wills (§ 573 (2)*)—Gift of Income for Life.—A gift to one for life of the entire income and interest to be derived from a trust fund is a gift of a life estate in the fund, the quantity of the estate being the same no matter by what name it is called, and to such quantity of estate the tax laws apply irrespective of the interposition of a formal trustee to collect and pay over the income.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 88; 16 Va.-W. Va. Enc. Dig. 1288.]

2. Taxation (§ 98*)—Life Tenant of Trust Fund—Statute.—Where a married woman, the holder of an estate for life in the net income of a trust fund, resided in Virginia, her trustee, a nonresident, was properly chargeable in Virginia with the taxes on the fund, under Code 1904, § 492, providing that if the property is the separate property of a person over 21, or a married woman, it shall be listed and taxed to the trustee, if any they have, and, if they have no trustee, it shall be listed by and taxed to themselves, in either case in the county or corporation where they reside; it being the duty of the life tenant who receives the entire income to pay the taxes on the corpus.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 101.]

3. Taxation (§ 98*)—Trust Fund—Life Tenant—Residence.—Under Code 1904, § 492, the property in which a married woman, the life tenant of a trust fund, has a life estate, is taxable at the place of her residence, without regard to the situs of the physical symbols by which such property is evidenced.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 101.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.